

REMARKS

This amendment is in response to the Official Action dated April 16, 2008. Claim 1-28 remain pending in this application. Claims 1, 10, 18, 19, and 28 are independent claims. Reconsideration and allowance is requested in view of the following remarks. No new matter has been added by this Amendment.

Rejections under 35 U.S.C. § 101 Rejections

Claims 1, 10, and 18-19 have been rejected under 35 U.S.C. § 101 based upon the allegation that the claimed invention is directed to non-statutory subject matter, particularly an algorithm.

Applicant respectfully submits that the requirements set forth in the Action are taken out of context, and are actually at odds with what is actually held in the *State Street* decision. In that regard, Applicant submits that the definition of statutory subject matter as set forth by the Examiner is decidedly narrower than what is required by the statute as interpreted by the Court of Appeals for the Federal Circuit.

C, GRAHAM OK TO ENTER

8/4/08

In *State Street Bank & Trust Co. v. Signature Financial Group, Inc.*, 149 F.3d 1368, 47 USPQ2d 1596 (Fed. Cir. 1998), the Court of Appeals for the Federal Circuit stated that:

The repetitive use of the expansive term "any" in § 101 shows Congress's intent not to place any restrictions on the subject matter for which a patent may be obtained beyond those specifically recited in § 101. Indeed, the Supreme Court has acknowledged that Congress intended § 101 to extend to "anything under the sun that is made by man." *Diamond v. Chakrabarty*, 447 U.S. 303, 309, 65 L. Ed. 2d 144, 100 S. Ct. 2204 (1980); see also *Diamond v. Diehr*, 450 U.S. 175, 182, 67 L. Ed. 2d 155, 101 S. Ct. 1048 (1981).³ Thus, it is improper to read limitations into § 101 on the subject matter that may be patented where the legislative history indicates that Congress clearly did not intend such limitations. See *Chakrabarty*, 447 U.S. at 308 ("We have also cautioned that courts 'should not read into the patent laws limitations and conditions which the legislature has not expressed.'" (citations omitted)). *State Street*, 47 USPQ2d at 1600.

With regard to the "mathematical algorithm" exception, the Court stated that, when applied to the evaluation of currency and when having clear application to reality and business, such